

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>2648 MARION LLC,</p> <p>v.</p> <p>Respondent:</p> <p>CITY AND COUNTY OF DENVER COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 49261</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 9, 2008, Diane M. DeVries and Karen E. Hart presiding. Petitioner was represented by Jim L. Considine, Owner/Officer of 2648 Marion LLC. Respondent was represented by Eugene Kottenstette, Esq. Petitioner is protesting the 2007 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**2648 Marion Street, Denver, Colorado
(Denver County Schedule No. 02265-42-035-000)**

The subject property consists of a 2,054 square foot two-story residence built in 1896 on a 3,125 square foot site. The subject property is located in the Whittier neighborhood, approximately five blocks from the Five Points neighborhood. It is the smallest non-grandfathered site in the neighborhood and the lot is 25 feet wide.

Petitioner’s witness, Mr. Wes Peterson resided in the subject property during the base period. The subject property needs repairs including electrical, windows, doors, floor repairs, and exterior cracks in the brick. The neighboring property drains onto the subject property at the subject’s foundation and causes water infiltration in the basement. The subject property also has functional issues such as the first floor bathroom located off the kitchen, access to the second floor bathroom through a bedroom, 11-foot ceilings, and poor traffic flow through the upstairs bedrooms. The

shower in the second floor bathroom is in a clawfoot tub and you must stand sideways to shower, as the walls are sloped.

Mr. Peterson considered purchasing the subject property but felt it would cost more than \$100,000.00 to repair the defects. The property has no sub-floors, the floors tilt to the walls, there is no heat in the second story back bedroom or laundry room, and the water pipes and gutters need to be replaced. The kitchen is 1950s style and needs to be updated. While he lived there the basement flooded three times with two to three inches of water, which came through the brick wall and an old basement window location. The neighboring house is located about 2.5 feet from the subject property and is even closer with the roof overhang, which contributes to the water drainage issue and basement flooding.

Based on the market approach, Petitioner presented an indicated value of \$244,488.00 for the subject property.

Mr. Considine testified that the subject market is stable. He has periodically maintained the subject property and has worked on the water issues. The drainage issue originates off the site and he is not sure how to cure the problem. The electrical and plumbing in the subject have marginal functionality. The windows have had only cosmetic maintenance. Mr. Considine obtained estimates from licensed electricians, plumbers, and general contractors, which range from \$24,500.00 to \$35,500.00 to remodel and bring the subject property up to code.

The subject property is located in a dangerous neighborhood, the "Broken Windows" area of Denver. Mr. Considine believes the most important value indicators are location, condition, and similar physical characteristics

Petitioner presented four comparable sales ranging in sales price from \$232,000.00 to \$273,500.00 and in size from 1,829 to 2,329 square feet. After adjustments were made for market appreciation, garage, size, fireplace, etcetera, the sales ranged from \$220,500.00 to \$245,500.00.

Regarding the Assessor's comparable sales, Mr. Considine believes the adjustments made were large at 14%, 13%, and 18% respectively. Therefore he does not think Respondent's comparable sales are as similar as his, irrespective of location.

Petitioner is requesting a 2007 actual value of \$244,488.00 for the subject property.

Respondent presented an indicated value of \$295,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$330,000.00 to \$385,950.00 and in size from 2,068 to 2,156 square feet. After adjustments were made, the sales ranged from \$283,394.00 to \$318,789.00.

Respondent's witness Mr. Richard Armstrong, a Certified Residential Appraiser with the City and County of Denver Assessor's office conducted both interior and exterior inspections of the subject property. He performed an exterior inspection of his comparable sales and verified the sales

data and interior characteristics through MLS data. His time adjustment is a slight upward adjustment of 0.34174% per month. He also adjusted the sales for site size, residence square footage, fireplace, bathrooms, and garage. All of the comparables were remodeled at the time of sale so downward adjustments were made for condition. He recognizes that the subject's downstairs bathroom is located off the kitchen but that is typical for homes of that era.

The subject house is in fair condition and Mr. Armstrong adjusted the comparables due to the subject's functional obsolescence. Mr. Armstrong testified that the subject kitchen was remodeled about 10 years ago. There is a neighborhood trend for gentrification and the market reflects upgrade differences. The most important factor is the location of the property and all of Mr. Armstrong's comparable sales are located in the Whittier neighborhood. He believes his sales are more similar in style, characteristics, and location than Petitioner's sales. He gave most weight to Comparable Sale 1.

Regarding Petitioner's comparable sales, they are located further distance to the subject than Mr. Armstrong's comparables and in different neighborhoods, and some are one and one-half story design and not two stories. Comparable Sale 2 is located in the Five Points neighborhood, Comparable Sale 3 is located in the Cole neighborhood, and Comparable Sale 4 is located in the Clayton Neighborhood.

Mr. Armstrong testified that he believes that it would cost less than \$25,000.00 to bring the subject property to an average condition.

Respondent assigned an actual value of \$274,100.00 to the subject property for tax year 2007.

Petitioner presented sufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2007.

Regarding Petitioner's sales, Sale 1 is a different style than the subject and adjusts to a value of \$220,000.00, far outside the value indicated by Respondent's sales and nearly \$25,000.00 less than Petitioner's requested value. As an outlier, this sale can be given little weight. Sale 2 is indicated as a lender/corporate owned property, has a higher loan interest rate than the other three Petitioner sales, and may not be an arm's-length sale. Sales 3 and 4 are located outside the subject's neighborhood. The Board gives little weight to Petitioner's sales.

Respondent's sales are all higher quality than the subject and are remodeled properties. The Board is not convinced that the sales were adjusted well enough for these attributes or the subject's deferred maintenance. Adjusting Respondent's concluded value of \$295,000.00 by an additional \$25,000.00 for these attributes results in a value of \$270,000.00.

The Board concludes that the 2007 actual value of the subject property should be reduced to \$270,000.00.

ORDER:

Respondent is ordered to reduce the 2007 actual value of the subject property to \$270,000.00.

The City and County of Denver Assessor is directed to change his records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS § 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of CRS § 24-4-106(11) (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

CRS § 39-8-108(2) (2008).

DATED and MAILED this 13th day of February 2009.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries
Diane M. DeVries

Karen E Hart
Karen E. Hart

This decision was put on the record

FEB 12 2009

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

H. A. Flynn
Heather Flannery

